

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RODNEY L. DONELSON,)
Petitioner,)
v.)
TROY STEELE,)
Respondent.)
Case No. 4:16-cv-00637-AGF

MEMORANDUM AND ORDER

This closed matter, which was filed under 28 U.S.C. § 2254, is now before the Court on Petitioner’s pro se motion (ECF No. 24) for the appointment of counsel. In his motion, Petitioner also asks the Court whether he needs to file anything in connection with the Court’s issuance of a Certificate of Appealability. As final judgment has been entered and all proceedings in this Court are now closed, the Court will deny Petitioner’s motion to appoint counsel.¹

However, the Court will direct the Clerk of Court to send Petitioner a form notice of appeal, which Petitioner may use if he wishes to appeal the Court's judgment. Under Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, Federal Rule of Appellate Procedure 4(a) governs the time to appeal in this case, and a timely notice of appeal must be filed even where, as here, the Court has already issued a Certificate of Appealability.

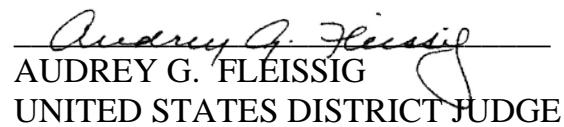
¹ If Petitioner files a notice of appeal, he may file a motion for appointment of counsel with the Court of Appeals.

Under Rule 4(a), a notice of appeal ordinarily must be filed within 30 days after final judgment, but where, as here, a timely motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) has been filed, the time to file an appeal runs from the entry of the order disposing of that motion. *See Fed. R. App. P. 4(a)(4)* (“If a party files in the district court any of the following motions under the Federal Rules of Civil Procedure [including a motion to alter or amend the judgment under Rule 59]--and does so within the time allowed by those rules--the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion.”); *see also Sanders v. Clemco Indus.*, 862 F.2d 161, 168 (8th Cir. 1988). Because the Court’s Order denying Respondent’s timely Rule 59(e) motion to alter or amend the judgment was entered on December 9, 2019, the time to file a notice of appeal will expire 30 days thereafter, on January 8, 2020. If Petitioner wishes to file a notice of appeal, he must do so by that date.

Accordingly,

IT IS HEREBY ORDERED that Petitioner’s pro se motion to appoint counsel is **DENIED**. ECF No. 24.

IT IS FURTHER ORDERED that the Clerk of Court shall send Petitioner a copy of the Court’s form notice of appeal.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 26th day of December, 2019.